

THE INFLUENCE OF THE TOBACCO INDUSTRY ON EUROPEAN TOBACCO-CONTROL POLICY

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I. INTRODUCTION

This chapter examines the extent, nature and effects of the tobacco industry^a influence on European public health policy over the last 20 years. It uses internal industry documents to show that their efforts in this area have been energetic, concerted and systemic. It also shows that, in at least one major policy area, i.e. the control of advertising, it has been successful. In the process, it raises crucial questions for future European tobacco control.

Arguably, the tobacco industry's efforts to influence policy are only to be expected. The business community has long recognised that economic success is not only dependent on their consumer marketing, i.e. getting the right product to the right people in the right place at the right price, but also on the macro-economic environment within which the company operates. The political and regulatory culture is a crucial element of this environment and so, as Jobber¹, a leading business academic explains, “close relationships with politicians are often cultivated by organisations both to monitor political moods and influence them”. Certainly European officials are very familiar with commercial interests wanting to offer advice and suggestions regarding the regulation of their industry. It would have been unthinkable, for example, for recent consideration of research ethics procedures to have taken place without consulting the pharmaceutical companies.

Thus lobbying or “stakeholder marketing” is as much standard business practice as consumer marketing. As Jobber¹ goes on to note: “the cigarette industry, for example, has a vested interest in maintaining close ties with government to counter proposals from pressure groups such as ASH”. Any industry would do the same in such circumstances, even if the tobacco industry's methods, which, as we will see, include a predilection for smuggling, would be unacceptable in other corporate sectors.

However, tobacco is not a standard business. Cigarettes are uniquely harmful, in that they kill even when used precisely as the manufacturer recommends. No other product does this. Alcohol, cars and even food products (given the obesity epidemic) kill people, but only when abused. In addition, as Chapter I details, the sheer scale of the harm done by tobacco is unprecedented. It is this public health threat that has led to increasingly severe limitations on tobacco's consumer marketing. However, by contrast, stakeholder marketing remains entirely unfettered, and, arguably, from the tobacco industry's perspective, all the more important.

As stakeholder marketing is a standard business practice, the next section of this chapter (see section 2, The plan: how the industry approached the task) is structured as a business plan. It is based on the industry's own internal planning documents and written from their perspective. This approach underlines the strategic and deliberate nature of stakeholder marketing, and that, as with consumer marketing, its ultimate aim is to influence behaviour. The only difference is that the target is not the public, but policy makers and those who may be able to influence them.

^a This chapter refers exclusively to the smoked tobacco market.

Ultimately, however, the impact of course is on the public. If policy makers are persuaded against introducing effective tobacco-control measures, more people will be harmed by smoking. The final section (see section 3, The future: what should be done about tobacco influence?) picks up this issue and looks to the future. Specifically, given the severe controls that are now placed on the tobacco industry's consumer marketing, it asks what should be done about its stakeholder marketing? It goes on to argue for comprehensive regulation of the tobacco market.

2. THE PLAN: HOW THE INDUSTRY APPROACHED THE TASK

The industry did not construct one unified plan to guide their campaign of influence. This is partly because the European tobacco industry actually comprises a number of different companies who are, at least in other contexts, fiercely competitive. That said, one company, Philip Morris (PM), has held a dominant position in the European Union (EU) 15 over the last 20 years, with a 36.5% share of the market at the beginning of 2003; the other major (but much smaller) operators being Gallaher, Imperial, British American Tobacco (BAT) and Japan Tobacco (table 1). A similar pattern emerges in the new Member States, where the break up of state monopolies has resulted in PM emerging as market leader in six of the ten countries and second in two.

A recent Datamonitor^b analysis² notes PM's leading position and this tendency for consolidation.

The industry's response to the business environment also had to be flexible and organic because it was fluid and changing. Their intentions and methods, therefore, had to be extracted from numerous source documents.

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In addition, it seems that the tobacco industry was slow to develop its stakeholder marketing activities, and that early tobacco-control successes in labelling (Directive numbers 89/622/EEC and 92/41/EEC), advertising (Directive 89/552/EEC), tar yields (Directive 90/239/EEC) and taxation (Directives 92/78/EEC, 92/79/EEC and 92/80/EEC) can partly be attributed to their slow response⁴.

Nonetheless, the various source documents reveal a systematic and carefully planned approach to the challenge of influencing EU policy from the early 1990s. The environment was scanned to identify the principal threats facing the industry, and the corresponding opportunities (see section 2.1, Threats and opportunities). The aim was to minimise the former, whilst exploiting and maximising the latter. Achieving these objectives was dependent on key people outside the industry behaving in certain ways, e.g. politicians favouring a particular legislative option or trade union leaders opposing a given working practice restriction. These people were identified, their needs understood and effort focused on those who were perceived as being susceptible to influence. In marketing this process is known as "segmentation and targeting" (see section 2.2, Segmentation and targeting). Strategies were then formulated (see section 2.3, The formulation of strategies) to address the needs of these "customers". It was equally important to identify those groups or competitors (See section 2.4, Competitive analysis) who could interfere with the company's aims and objectives but with whom it was not possible to do business. The only option here was to eliminate, or at least reduce, their power.

^b Datamonitor is a leading syndicated source of market information.

Table I. - Philip Morris Dominance in the European Union Tobacco Market

COUNTRY	TOBACCO COMPANY (% Share of the market)
AU	Austria Tabak: 53; PM: 29.5 ; BAT: 3.7; RE: 3.4; Other: 10.4
BE	PM: 45 ; BAT: 32; CINTA RE: 9.6; Seita: 4.8
CY	BAT: 86; PM: 13 ; Other: 1
CZ	PM: 79.5 ; STI: 10; BAT: 5.5; RJR: 3; Other: 2
DK	PM: no share
EE	PM: 63 ; Austria Tabak: 27; Other: 10.1
FI	AMER group (PM): 75.4 ; BAT: 14.2; Seita Tupakka: 10.4
FR	PM: 37.6 ; Seita: 30.7; BAT: 16.4; JTI: 8.8; Other: 6.5
DE	BAT: 22.9; PM: 37 ; RE: 22.2; RJR/JTI: 3.6%; Other: 14.3
EL	PM (including Papastratos): 38.3 ; BAT: 16.3; JTI: 9.5; Other: 35.9
HU	BAT-PD: 39.7; PM: 30.1 ; RE DEBRECENI: 21.5; V Tabak: 8.1; Other: 0.6
IE	Gallaher: 48.3; Imperial: 30; BAT: 21.7
IT	PM: 60.3 ; AAMS: 29.9; BAT: 4.4; RJR/JTI: 4; Other: 1.4
LV	PM: 47 ; House of Prince: 34; Other: 19
LT	PM: 84.1
LU	PM: 41.6 ; BAT: 11; CINTA RE: 10.3; Tobacofina: 25.2; Other: 11.9
MT	BAT/RO: 96.4
NL	BAT: 40.4; PM: 40.4 ; RJR/JTI: 14.2; Other: 5
PL	PM: 33.3 ; WWT Poznan (RE): 19.3; BAT: 15.2; House of Prince: 13; Other: 19.2
PT	Tabaqueira: 90.2; Other: 9.8
SK	PM Slovakia: 55 ; SIT (RE): 44; Other: 1
SI	Tobaena Ljubljana (RE Seita): 80; Other: 20
ES	Tabacalera/Altadis: 45; PM: 31.2 ; RJR/JTI: 8; BAT: 6.2; Other: 9.6
CH	House of Blend: 75.3; PM: 24.7
UK	Gallaher: 39.9; Imperial Tobacco: 39.7; Rothmans: 13.8; Other: 6.6

Data are presented as %. PM: Philip Morris; BAT: British American Tobacco; RE: Reemsta; STI: STI/Reemtsma International Praha (Czech); RJR: RJ Reynolds; JTI: Japan Tobacco International; RE DEBRECENI: Reemsta Debreceni; CINTA RE: Cinta Reemsta; RO: Rothmans (Malta); SIT (RE): SIT/Reemtsma (Slovakia). Modified from Shafey *et al.*³

In short, despite its fragmented authorship and evolving nature, the industry's stakeholder marketing efforts can be laid out as a conventional business plan, and this section of the chapter does exactly that. It is written from the perspective of the tobacco industry and concludes with a section examining whether or not this plan actually delivered results (see section 2.5, The evaluation of effectiveness).

2.1. Threats and opportunities

A “situation analysis” of the business environment facing tobacco companies over the last 20 years shows that, of all the forces at play including physical, economic, social, technological and political/legal, the latter has been of particular importance. Greater public health concerns about the hazards of smoking have made regulation more politically acceptable, if not inevitable, and, from the industry's perspective, increasingly constraining. In this context, the industry was concerned about the Commission's awakening interest in tobacco issues as long ago as 1977. A letter between the BAT offices in Germany and the UK remarks on the “startling ... impact with which the EC [European Community] action in this field seems to be gaining speed since the last few months” and highlights the need “to invest some substantial amount of thinking on how we counteract”⁵.

The worry was that Europe would follow the strong anti-smoking lead of the USA, and the need was “to avoid or delay a 'USA situation' from developing in European countries”⁶. To do this the tobacco industry argued that they “must prevent unreasonable EC intervention”⁶. This unreasonable intervention focused around three pressure points: marketing freedoms, smoking in work and public places and tax harmonisation.

2.1.1. Threats

2.1.1.1. Marketing freedoms and 'The Ad Ban'

Advertising and promotion is a vital part of the tobacco industry's business effort. They know that smoking satisfies a clutch of psycho-social needs for smokers. At one end of the age spectrum are new smokers, who, as the industry's market research reveals “smoke Marlboro Lights” because they “are looking for reassurance... searching for an identity” and it “represents having passed a rite of passage”, not being “something done by immature smokers”⁷. At the older end, potential quitters are retained because “the emotional territory of 'very low' is ownable as a higher-level benefit which cannot be usurped by rivals”⁸. The tobacco companies satisfied these needs by building evocative brands: “If a brand of cigarettes does not convey much in the way of image values, there may well be little reason for a young adult smoker to persist with or adopt the brand”⁹. Advertising and other promotional activity were a vital component of this brand building.

Crucially, continued advertising also helped support the idea that tobacco is a legitimate, socially acceptable product, just like any other. Keeping promotional freedom was seen to be vital to maintaining a buoyant market and offered “the best long-term chance of preventing a fast, steep fall in the overall European cigarette market as a result of bans and decreased social acceptability”⁶.

Any threat to their promotional freedom is, therefore, taken seriously. One document warns that “Advertising, merchandising, and sports sponsorship for tobacco brands is coming under increasing pressure at both the national and EC levels”¹⁰. By contrast, setbacks for the Ad Ban

(as controls on tobacco marketing communications became known) were, therefore, welcomed:

“The ad ban was considered today by the Health Council, and it appears we have turned the corner”¹¹.

Proactive plans were also made to prevent any erosion of marketing communications. A presentation from Philip Morris (box 1) is headed “Marketing Freedoms” and explores in detail how to fulfil its “Objective: [to] Preserve major marketing freedoms in Europe”¹². It goes into great detail on how the threat can be reduced, including recommendations on alliance building, “preparing” the European Parliament and legal options.

Box 1. - Philip Morris presentation: Marketing Freedoms

Objective:

Preserve major marketing freedoms in Europe

- Maintain the blocking minority against the EC Ad Ban directive.
- Use the European summit subsidiarity process to weaken or kill the ban.
- Secure agreement on a minimum harmonisation directive, voluntary code or another acceptable compromise.
- Modify the proposed Belgian Ad Ban and weaken the French loi Evin.

Major Actions:

Blocking minority:

- Lobby UK cabinet, deregulation czar and European affairs minister. Expand contacts with labour party.
- Use all possible German influence to prevent a weakening of the blocking minority. Work with Chancellor Kohl to put Ad Ban directive on Commission subsidiarity list.
- Work with Greek billboard interests, growers and the Greek ambassador to shore up Greece. Follow up with the economics minister and the special advisor to the prime minister.
- Use successful revision of Dutch code and contacts with the economics ministry to keep the health minister from undermining the Dutch position. Develop plan to maintain Dutch vote after 1994 election.
- Work through TSA president Perez to encourage a shift in the Spanish and Portuguese positions.
- Use supportive deputies and publishers seeking changes in the loi Evin to lobby for a moderation in the French position at EC level.
- Organise all economic interest in Italy that would be hurt by a genuine Ad Ban to push for a shift in the Italian position.
- Use the successful resolution of the Belgian Ad Ban to separate the government from the pro-ban camp.
- Lobby the Danish parliamentary EC and health committees to deepen the Danish reservation to the ban.

Compromise proposals:

- Persuade the Germans to table their minimum harmonisation proposal, and blocking countries to support it in the bilateral meetings to take place after the December 13 health council.
 - Create support for British “state-of-nation” approach.
 - Convince Flynn and other commissioner that the impasse can only be resolved via political compromise.
 - Work with key bureaucrats in DG-V to undermine their confidence in pro-ban studies and data, and inform them of political changes that make compromise feasible.
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- Bring ally network fully on board the minimum harmonisation proposal and push them to intensify their lobbying.
 - Continue lobbying all country EC ambassadors and health attachés to work for a consensus in coreper.
 - Lobby EC applicant countries on the compatibility of minimum harmonisation with their existing restrictions.
 - Prepare European parliament to accept compromise council position.

Legal and collateral issues:

- Prepare and disseminate legal argument that Article 129 of Maastricht prevents the EC from banning advertising.
- Re-invigorate contingency planning for legal challenge to EC Ad Ban at national level and in the European Court of Justice.
- Work with DG-XV on green paper on advertising policy.
- Stop the fremion initiative on sponsorship in the European parliament.

EC: European Community; DG-V: Directorate General 5 of the European Commission (Employment and Social Affairs).
Source: TobaccoDocuments.org¹²

2.1.1.2. Work and public place controls

Controls on smoking in public and work places also undermine tobacco's social acceptability. Statutory controls in particular isolate and stigmatise the product. In addition, they have a very direct impact on the tobacco companies' bottom line, threatening both the amount of cigarettes each individual smokes (consumption) because “workplace smoking bans represent the most serious threat to smokers' opportunities to smoke...”¹³ and the number of smokers (prevalence). “When smoking restrictions in the workplace, public transport and restaurants are implemented, enforced and respected, demand for cigarettes decreases and incidence among adult smokers falls...”⁶.

The resulting (permanent) loss of sales has extremely serious financial consequences for the tobacco industry. “Conservatively assuming one out of every ten cigarettes is smoked in the

workplace, a total ban in all EC workplaces would reduce the overall market by 70 billion units.... If one assumed that smoking restrictions and social acceptability in Europe reach the same levels as they have in North America, it could result in a total market drop of 150 billion units by the end of this decade. In such a case, the lost volume is unlikely to ever be recovered”¹⁴.

As a result, workplace activities formed a crucial focus of industry efforts to influence public policy, with “workplace action plans ... across Europe and individual countries”¹⁰ and suitably generous funding. In 1991, the public place smoking category of the Philip Morris Environmental Tobacco Smoke (ETS) program had a total cost of \$3,950,000. A total of 58% of that (\$2,285,000) was spent on 'Workplace Objectives' and the rest split between restaurants and transportation¹⁵.

Great efforts were also made to undermine arguments that ETS is harmful to health.

2.1.1.3. Tax Harmonisation

At base, tax on tobacco is a problem for the industry because it restricts their capacity to use price as a part of their marketing effort. The heavier the tax, and the more inflexible the application, the greater this restriction becomes. Thus upwards harmonisation and specific, rather than ad valorem regimes, were particular problems, at least for the multinational operators.

As with public places, taxation has a very direct impact on profitability. As Geoffrey Bible, Managing Director of Philip Morris (later to become Chief Executive Officer) expressed it: “I cannot emphasize enough how very concerned I am about the path that the EEC [European Economic Community] tax harmonization is likely to take between now and 1992. The implications for us are extraordinary and could in fact dwarf our operating income or close to it if everything went wrong.”¹⁶

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2.1.2. Opportunities

Recognising these threats was the first step in the tobacco industry's attempts to deal with them; it focused executive minds, which then moved on to look for opportunities. Indeed, being such accomplished marketers, they were often able to turn threats into opportunities. The benefits of doing this are proportionate to the original threat. As Bible's memo on taxation goes on to say: “On the other hand, if it (taxation) went right, it could mean hundreds of millions of dollars to us and consequently I am of the view that success to the tobacco industry in this exercise is probably the single most important matter for PMI [Philip Morris International] over the next five years... Accordingly, I would like you to think about the issue and see how we can develop a means that you and I are actively involved with Ian Sargeant and the EEC Region on placing our best brains to bear...” and identify the best way of “...ensuring a successful outcome for the industry in general and for PM in particular on this issue”¹⁶.

In a similar way, whilst the EU interest in tobacco control was clearly a problem, two of its other characteristics, i.e. its complex decision making processes and its relatively weak health competency, were great potential opportunities. As, interestingly, was the taxation issue, in that it engendered smuggling.

2.1.2.1. EU Decision Making Processes

The complexity of the EU decision making was arguably a mixed blessing for the tobacco industry. On the one hand, it meant that threats could come from many directions; on the other, it offered multiple points of potential influence. However, given that the industry was trying to prevent rather than introduce legislation, the complexity tended to help them. They could work at constructing legislative obstacles for at least six different levels: the Member States, the Council of Ministers, the European Parliament, the European Commission, EU officials or civil servants and a range of advisors and expert committees.

There is evidence that the industry has tried to influence all these groups. However, they have put most energy into, and had most success with, the first two.

The Member States have a fundamental impact on EU decision making, so the general principle of encouraging moderation about tobacco control at country level is attractive. It makes sense “to lobby for a moderation in the French position at EC level”¹² recognising that “proactive, long-term programs at national level offer the best chance...” and “stronger national programs will also bolster our defence against EC-level threats”⁶. Virtually every European state was subjected to appropriate attention, as were (what were referred to as) “applicant countries” (box 2).

Box 2. - The Member States as tobacco targets

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“Modify the proposed Belgian Ad Ban and weaken the French Loi Evin”¹⁷.

“Use supportive deputies and publishers seeking changes in the Loi Evin to lobby for a moderation in the French position at EC level”¹⁷.

“Lobby UK Cabinet, deregulation Czar and European Affairs Minister. Expand contacts with Labour Party”¹⁷.

“Lobby the Danish Parliamentary EC and Health Committees to deepen the Danish reservation to the ban”¹⁷.

“Work through TSA President Perez to encourage a shift in the Spanish and Portuguese positions”¹⁷.

“Organize all economic interest in Italy that would be hurt by a genuine Ad Ban to push for a shift in the Italian position”¹⁷.

“A local coalition of opinion leaders in the Netherlands, 'Multiple Choice', which undertook communications efforts and lobbied the Dutch government on the EC directive”¹⁸.

“Lobby EC applicant countries on the compatibility of minimum harmonization with their existing restrictions”¹⁷.

The opportunity was greatly increased and was, therefore, embraced with enthusiasm, when qualified majority voting enabled blocking minorities to prevent legislative action. Thus the industry readily used “all possible German influence to prevent a weakening of the blocking minority”¹². The principle of subsidiarity, introduced in the Maastricht Treaty of 1992, also enhanced the value of country level interventions, and made it possible to use “the European summit subsidiarity process to weaken or kill the ban”¹².

Influencing the Council of Ministers was also extremely helpful from an industry perspective. The Ministers present each country's position and are key to leveraging qualified majority voting and subsidiarity. However, this would depend on contacts at the highest possible level; the Ministers will reflect the position of their leaders. Nonetheless, it is clear that the tobacco industry succeeded in making and exploiting such illustrious contacts. Carefully reviewed academic papers have been published showing that Chancellor Kohl of Germany, and Margaret Thatcher, along with her then Minister of Health Kenneth Clarke (currently deputy Chairman of BAT and still a British Member of Parliament), were deeply supportive of the tobacco industry and directly implicated in the travails of the European Ad Ban^{4, 19}.

2.1.2.2. The Treaty of Rome

The Treaty of Rome, establishing the European Community (now the EU), was, first and foremost, a trade agreement. In 1992, the Treaty of Maastricht, whilst instituting additional public health competences, failed to give the Community the ability to adopt binding health legislation. As a result major legislation is vulnerable unless it answers to internal market priorities. From the industry's perspective, this presented and still presents an enormous opportunity, which they were quick to identify:

“Unlike smoking at work which is presently treated as a worker safety and health matter, the EC does not seem to have legal competence to legislate public smoking, which it would have to treat as a public health matter”⁶.

There was evident pleasure from Philip Morris at the affirmation of this stance when “The Belgian Health Minister, chairing the Council, cited the recent Council Legal Service Opinion that the existing directive has a legal defect in that it cannot be justified under the provisions of the Maastricht Treaty giving the Commission jurisdiction over health matters.... any redraft cannot significantly restrict advertising without contravening Article 129 of Maastricht, which prohibits harmonization legislation on health issues; which is the position we have been arguing for the past several months”¹¹.

2.1.2.3. Taxation and Smuggling

Perhaps surprisingly, taxation could also be turned into an opportunity. Heavy levels of duty motivate smuggling. As Gilmore and McKee⁴ point out, this has advantages for the tobacco industry. Smuggling “stimulates consumption through the sale of cheap cigarettes” and the industry still receives the revenue whether the product was sold legally or not. This stimulated demand allows the industry to put “pressure on governments not to increase tax because of the loss of revenue, which may also result in lower prices and higher consumption... then the industry uses this to urge governments to reduce, or not to increase, taxes”²⁰. Additionally, if the contraband tobacco is intercepted, it has to be replaced, thus creating more sales²⁰.

Indeed the tobacco industry has been implicated in both large and small scale smuggling. The UK Health Select Committee (HSC), for example, noted the unrealistically large quantities of the UK companies Gallaher and Imperial Tobacco's cigarette brands going into Andorra. These exports “rose from 13 million cigarettes in 1993 to 1,520 million in 1997 - vastly more than the Andorran population of 63,000 could conceivably consume”²¹. In other parts of the world, tobacco executives have been successfully prosecuted for similar offences. In the USA,

two Brown & Williamson Tobacco Corporation's sales managers pleaded guilty to aiding smugglers²². BAT faced legal action in Florida for alleged tobacco smuggling in Ecuador²³. And, in Hong Kong, a BAT export director was convicted for receiving bribes from rival traders smuggling cigarettes into China²⁴.

On a smaller scale, other documents released by the HSC show that when market conditions demanded, tobacco companies would exploit the illicit trade in tobacco. In the UK's hand-rolled tobacco market during the late 1990s, around three quarters of tobacco was being bought from "informal sources" such as street markets, door-to-door or in public bars. These outlets were supplied by bootleggers, who brought back cut-price product from the cheapest continental source (typically Belgium). Therefore, they became crucial targets for Gallaher when launching their new "Amber Leaf" brand of hand-rolling tobacco.

"Bootleggers (who account for over 70% of the market in most areas) only bother with big brands - Old Holborn and Golden Virginia. We need to create a demand for Amber Leaf among the newer, younger consumers to encourage both shop purchase and a willingness among bootleggers to sell Amber Leaf"²⁵.

Box 3. - Targeting bootleggers

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<p>AMBER LEAF</p> <ul style="list-style-type: none"> • Gaining share of Duty Paid • Not chosen by bootleggers • Product liked by G.V. Golden Virginia smokers • New packaging next month 	<p>AMBER LEAF</p> <p>KEY ISSUES</p> <ul style="list-style-type: none"> • UK Distribution • Adoption by bootleggers • Awareness and trial • Brand Positioning
<p>AMBER LEAF</p> <p>A Co-ordinated Approach</p> <ul style="list-style-type: none"> • <u>Trial through bootleggers</u> and Duty Free • UK promotion/direct mail • Packaging changes • Media 	<p>AMBER LEAF</p> <p>Belgium</p> <ul style="list-style-type: none"> • Introduction of 50 g new design from January 1998 • Introduction of 25 g pack from April 1998 • Free papers available (boxed) from April 1998 <p>Duty Free</p> <ul style="list-style-type: none"> • Promotions, probably March/April/ May using free tin "kit"?

Source: TobaccoPapers.com²⁶.

This last observation is dramatically born out by a marketing presentation that clearly identifies bootleggers in Belgium as a route into the UK market (box 3). It talks of the key importance of “adoption by bootleggers” and “trial through bootleggers” for the success of Amber Leaf.

2.2. Segmentation and targeting

If the situation analysis identifies *what* needs to be influenced, segmentation and targeting reveals *who* can bring about these changes. These are typically individuals or groups who have, or can be brought to feel they have, a shared agenda with tobacco. These potential allies have to be distinguished from those who explicitly oppose tobacco interests (see the section 2.4, Competitive analysis). Occasionally, particular groups may fit into both categories; politicians with economic interests may be seen as potential allies, but not those with a health portfolio, for example.

Allies are extremely valuable for two principal reasons. First, they offer credibility. Tobacco industry lobbying is inextricably linked with business self interest and this does not measure up well against something as emotive and worthwhile as public health. But a Trade Union arguing for their members' rights, e.g. to smoke at work, is much more convincing. Secondly, they are cost effective. If allies can be convinced that their own interests will be well served, they will expend their own resources to achieve mutually desirable goals.

“We increasingly seek sponsorship and financial support for meetings and events from outside governmental and other neutral sources. This significantly reduces the budgetary demands and adds substantial credibility”²⁷.

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“Avoids placing PM in the front lines of defence by using an industry cover”⁶.

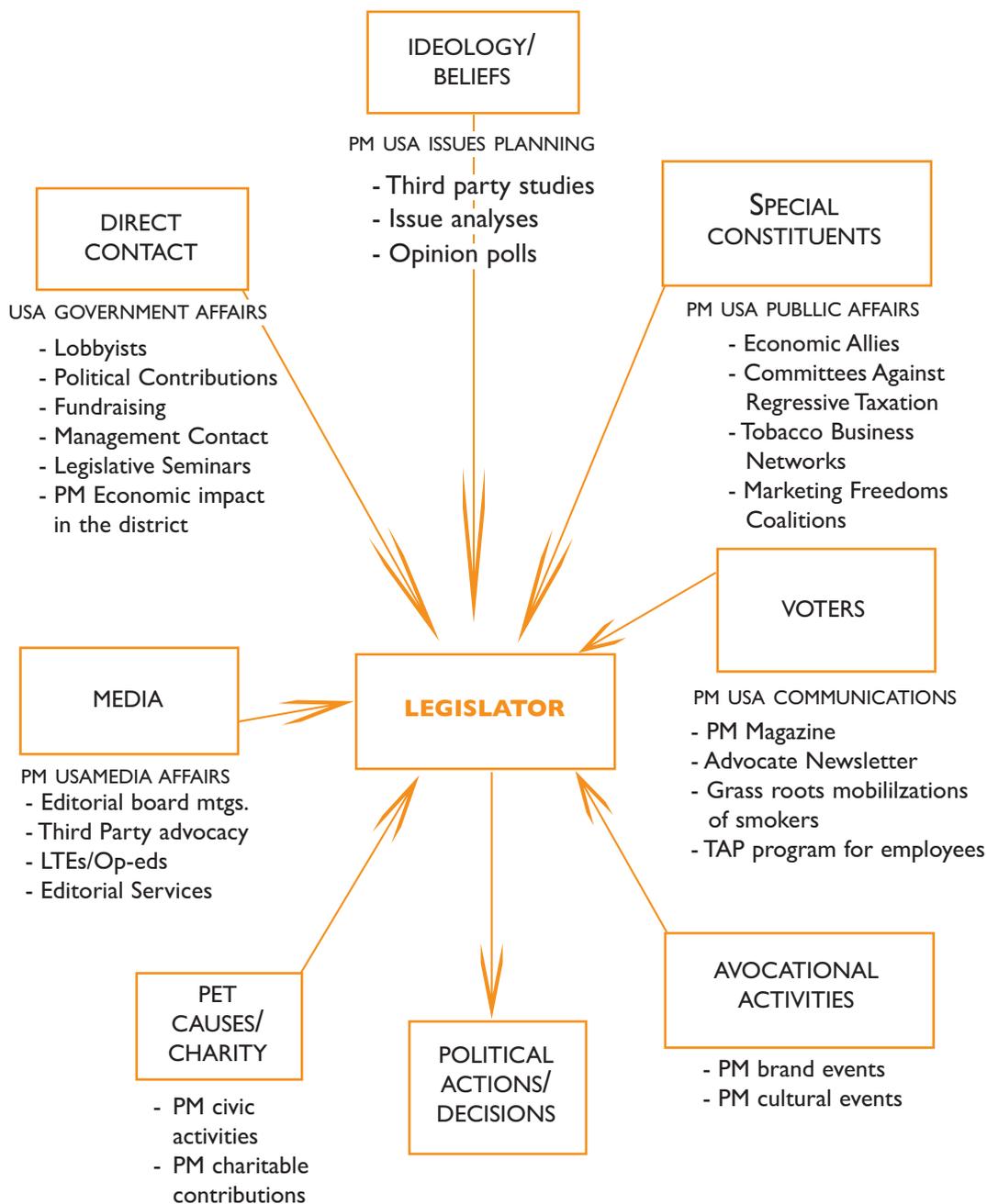
In addition, allies can operate at both a national and European level, neatly complementing the industry's desire to exploit the full complexities of EU decision making. Therefore, they were sought out with enthusiasm, using an opportunistic and hydra-headed strategy.

Fortunately for the tobacco industry, potential supporters were numerous and varied, and serious efforts were made to “build allies...” among groups as diverse as “unions, industrialists, regulators”²⁸. Figure 1 provides a vivid diagrammatic illustration of this process from Philip Morris. It is like a spider's web, with legislators the fly caught at the centre²⁹.

Most fundamentally, the companies formed self-interest groups among themselves within Europe. The Confederation of European Community Cigarette Manufacturers Ltd (CECCM) was established in the UK in 1988 with a membership of private manufacturing companies and national manufacturing associations. Funded by membership fees, the CECCM states its objective in the Commission's civil society organisations directory³⁰, as “to monitor EU developments relevant to the tobacco sector; to communicate common viewpoints and positions of its members to the EU institutions as appropriate.” Other tobacco organisations listed in the directory include the France-based Groupement des Industries Européennes du Tabac, and the Germany-based Europäischer Tabakwaren-Großhandelsverband e.V. Following Commission Decision 98/236/EC³¹, the Groupe Permanent du Tabac was established with a 5-year mandate. CECCM represents the industry's interests in this Commission consultative framework.

Fig. 1. - Key targets for Philip Morris

PM programs to affect legislation decisions



The Co-operation Centre for Scientific Research Relative to Tobacco was founded in 1956 (under French law) to “promote international cooperation in scientific research relative to tobacco”³². Its international membership includes companies and institutes with research and development activities relating to the areas of tobacco plants, manufacturing and materials and scientific results are presented annually. Similarly, the International Committee on Smoking Issues was formed by RJ Reynolds International, BAT, Philip Morris, Reemtsma, Rothmans, Imperial and Gallaher in 1978, and renamed the International Tobacco Information Centre (INFOTAB) in the early 1980s. INFOTAB's aims included establishing an “early warning” system for anti-smoking initiatives worldwide, and “to take industry programs to the grass roots and municipal levels” to help the industry to prevail over public health³³.

There were also industries that shared direct concerns about particular regulatory issues, i.e. the advertising and media industries about Ad Bans, e.g. the hospitality trade about indoor air legislation and farmers about tobacco control in general. On the advertising front, for example, links were established with an array of interest groups, including “EAAA [European Association of Advertising Agencies] (R. Beatson), IAA [International Advertising Association], EAT [European Advertising Tripartite] (A. Tempast), the Tobacco Advisory Council, the IPA [Institute of Practitioners in Advertising], the EAT Domino Task Force (J. Ritchie), and the coordination of messages and programs” was thereby “improved”. In addition an “information kit” was “circulated across all these organisations and affiliates (over 200 agencies in Europe), the EGTA (European Group of Television Advertising), and numerous press associations”¹⁰. LIBERTAD (Liberty to Advertise), American European Community Association (AECA) and the New York Society for International Affairs (NYSociety) were also supported/sponsored by Philip Morris³⁴.

The degree of support this alliance building received is witnessed by the fact that “An ad signed by advertisers and agencies on the freedom of commercial speech is now being regularly published, free of charge, by over twelve newspapers”¹⁰.

Farmers were brought into the equation by working “with Greek billboard interests, growers, and the Greek Ambassador to shore up Greece. Follow up with the Economics Minister and the Special Advisor to the Prime Minister”¹². Similarly, “Philip Morris EEC [kept] in close touch with Federation Nationale de l'Industrie Hoteliers in Paris”¹⁰.

In addition, there were potential allies in totally unconnected industries such as alcohol, food, and even toys, which may be resistant to regulation *per se*. There was, for example, the opportunity “to make the communications and business communities in Europe appreciate the dangers of the 'domino effect'”, [the danger that legislators concerned about tobacco today will move on to other industries tomorrow] “and to activate them in the defence of marketing freedom for tobacco”¹⁰.

This broadened out into the wider business community who could also be encouraged to appreciate the difficulties being faced by the tobacco industry and the potential danger of the “domino effect”. Supplying “spokespeople to speak ... at established conferences for business people”, developing “relationships with UNICE [Union of Industrial and Employers' Confederations of Europe] and place articles in their newsletter”¹⁰ and using another ally, Le Centre de Documentation et d'Information sur le Tabac (CDIT), sending “the largest Belgian companies a letter with a copy of their courtesy campaign and a coupon to order more”¹⁰ were all felt to be worthwhile investments. Indeed prospects seemed good “as many regulations referring to the domino theory are progressively planned by EC and national authorities”¹⁰.

Interestingly, the image of the tobacco industry seemed to be important here, just as brand image matters in consumer marketing. In particular, there was a desire to be seen as a diversified, blue chip and genuinely international enterprise.

Industry involvement in the International Tax and Investment Centre (ITIC) extends this broader business networking policy. The ITIC was founded in 1993 and claims to be an independent non-governmental organisation; its mission is to “serve as a clearinghouse for information and as a training center to transfer Western taxation and investment know how to improve the investment climate of transition countries, thereby spurring formation and development of business and economic prosperity”³⁵. Key sponsors include Altria (Philip Morris), Philip Morris International, Japan Tobacco International and Imperial Tobacco, (as well as numerous other transnationals the Norwegian and Dutch Ministries of Foreign Affairs and the UK Department for International Development)³⁵. In February 2004, its Director called for the EU to rethink its policy of offering only limited derogations on tobacco taxes to new CEE member states. An article in the influential *European Voice* newspaper claimed that the new entrants would suffer significant tax revenue losses following enlargement, as higher cigarette taxes would increase smuggling in the region³⁶. Other articles on their website attack the seminal World Bank report and its tobacco tax policies³⁷.

Not all allies were self-seeking. Trade unions might have an interest in looking after their smoking members and workplace professionals their smoking staff, so the former could become “important allies to support the adoption of policies accommodating smoking in the workplace”³⁸ and the latter could be targeted by “placing articles in specialised press targeting personnel managers”¹⁰. “The likely journals to be used would be those whose target audience includes decision makers, politicians, top business figures, etc. Papers such as...*The Financial Times* (London)... *The Times* (London), *Le Monde* (Paris), *The International Herald Tribune* (Paris)... etc.”³⁹.

Higher ideals also motivated another group of potential allies, those stimulated by libertarian concerns. Many people genuinely object to what they see as the unwarranted advance of “big government” into people’s lifestyle choices. Much of the opposition to tobacco control by Margaret Thatcher’s Conservative Party was motivated by this type of political philosophy, and its sentiments are still prevalent today.

The industry could and did also take the opportunity to stimulate such discontent, funding existing interest groups and even founding their own. For example, it developed an active interest in smokers’ rights groups across Europe⁴. The groups were seen as a crucial channel in the industry’s view as “they have no commercial interest and as such are a more credible voice than the tobacco industry”³⁸. The tobacco industry continues to fund them today⁴⁰.

Given this interest in winning hearts and minds, journalists are also a very valuable source of potential allies. Philip Morris, for example, saw benefits in “developing a communications program to educate journalists on the specific scientific issues surrounding ETS. The first step is a visit to Neuchatel with a group of Dutch journalists”¹⁰.

Scientific opinion was also courted, with similar educational exercises. In conjunction with the German trade association *Verband der Cigarettenindustrie*, for example, “a toxicology forum” was organised “in Budapest with over 300 scientists. The subject of the congress was ETS and they concluded the ETS did not constitute a health risk based on the available science”¹⁰.

Similarly, Philip Morris⁴¹, set up the International Institute for Rational Risk Policies in 1988 to counter the bans on smoking and marketing by identifying scientists and other experts in Europe for an advisory board to further this cause and promulgate the position that: “The solution is not to ban smoking (particularly since ETS has not been shown to be a health hazard), but to improve ventilation”⁴¹.

Likewise, as already noted, relationships could be built with politicians. As well as Thatcher, Kohl and Clarke, Gilmore and McKee⁴ show how Martin Bangemann, head of Directorate General III and Professor Karl Überla, president of the Bundesgesundheitsamt (Germany's Federal Health Office), were also successfully courted.

In the final analysis, the tobacco industry could simply buy allies as well as seduce them, in the same way as armies can employ mercenaries as well as volunteers. There are numerous examples of consultants, lawyers, public relations firms and communication agencies being retained to advance their stakeholder marketing activities.

2.3. The formulation of strategies

As any good marketer would, the industry then designed appropriate offerings for each target group. Just as consumers are offered different brands, so stakeholders have their needs defined and satisfied. Three examples, the business sector, politicians and journalists illustrate the process:

(i) Business allies, especially those in associated industries are relatively straightforward. The threat from tobacco-control regulation has to be pointed out and resistance facilitated. The aim here was to identify potential quid pro quos that would bring the various groups and organisations into alignment on the relevant issues. Campaigns were run across Europe on the benefits of advertising, as the links with the array of advertising groups, above (see section 2.2, Segmentation and targeting), shows. For example, “sympathetic lobbying and media relations”¹⁰ efforts were supported, “and the restaurant industry was mobilised by informing them of 'economic drawbacks of government intervention in this area’”¹⁰.

This was not an ad hoc exercise. The industry documents talk of keeping “in close touch with”, “permanent contacts”, “coalition building” and developing “relationships”¹⁰. As discussed in the previous section, this networking was spread very widely using the threat of the “domino effect” to pull in many disparate industries

Underpinning all this is the continuous development of strong relationships that ultimately increase the tobacco industry's leverage. This long-term relationship building, as we shall see, is a recurring theme in the industry's stakeholder marketing.

(ii) Politicians and EU officials have a difficult job to do and friendships could be built up by helping them do it more easily, by, for example, working “with DG-XV [Directorate General XV of the European Commission] on Green Paper on advertising policy”¹² or “working with key bureaucrats in DG-V to undermine their confidence in pro-ban studies and data, and inform them of political changes that make compromise feasible”¹².

Ultimately, these friendships can be developed into “a self-interested partnership” in this case “among the German Presidency, the Commission and the Parliament”⁴² or “Excellent relations LB/PM [Leo Burnett/Philip Morris] with full coordination.” and “Good contacts have been developed with Coreper [Committee of Permanent Representatives] and selected ministers”¹⁰. As with the business sector, the aim is to develop long-term, mutually beneficial relationships.

The formal consultancy contract agreed between Margaret Thatcher and Philip Morris typifies the way in which such quid pro quos were transformed into long-term relationships. Margaret Thatcher received substantial sums of money paid to her private office enabling her to promulgate her ideas across the globe. In return, Philip Morris received access to her status, experience and contacts, especially in Eastern Europe (box 4).

Box 4. - The Relationship between Philip Morris and Margaret Thatcher

Following initial negotiations in 1991^{43,44} a consultancy arrangement was set up in November 1992 between Philip Morris Companies Inc. and Margaret Thatcher for an annual fee of \$250,000, plus expenses⁴⁵.

“Her strongest contribution might be in providing use with risk analyses relating to countries in which we might be considering investments, particularly Eastern Europe, Russia and China. She... knows the current leadership, and should be in a position to advise us about possible future political and economic developments which could affect a potential investment”⁴⁴.

A lunch in Chicago with Thatcher provided Geoff Bible, PM's Executive Vice President, with “helpful advice” resulting in a “wonderful outcome” from discussions with Turkey's Prime Minister⁴⁶.

Other ideas for using the new “Consultant” were sought within the company⁴⁷. The PM EEMA (Eastern Europe, Middle East & Africa) office requested Thatcher's services in Eastern Europe⁴⁸:

- She would be useful for convincing Czechoslovakia to approve foreign ownership of the state-owned tobacco industry as the Minister of Finance was “an admirer of Mrs Thatcher”.
- In Poland, work with the Customs Director and the Ministry of Finance on taxation was not “advancing to our satisfaction” and Thatcher was valuable coming from the UK, a country with “a favourable specific element”.
- Following her “excellent relations” with Gorbachev, she may also give Yeltsin “a firm recommendation...on all issues concerning our industry” in Russia.

(iii) Journalists were also helped with “a complete media relations program” including “regular briefings” and access “to top PM executives” and “PM-sponsored cultural and sports events”¹⁰. These meetings were regular and well planned:

“A program of regular press luncheons, on a monthly or bi-monthly basis, currently exists in France, Germany and Belgium. An issues briefing program exists for Spain. In addition, the HQ team has had frequent contact with selected journalists in Italy, with Pan-European publications, and with wire-service journalists operating out of Brussels”¹⁰.

Similarly, a study of internal documents by Muggli *et al.*⁴⁹ looks specifically at Philip Morris' efforts to influence journalists; particularly to promote industry research to counter the World Health Organization (WHO) and the International agency for Research on Cancer (IARC)'s ETS study. “The European journalist intern program should facilitate the “care and feeding” of trained journalists who would write articles supporting the industry's position.” This tactic had already been successful in the USA, at the National Journalism Center which had a record of “15 years worth of journalists at print and visual media throughout the country...to get across our side of the story”⁴⁹.

The key challenge was that “The tobacco industry, in general” lacked “credibility in speaking to the media”. However, PM's willingness to speak out has been rewarded by better media relations, with journalists often spontaneously turning to PM as the official 'spokesman' of the industry”¹⁰. And, the return for “the increased quality and frequency of our contacts with the media and a greater flow of usable information to key journalists” was that the press include the industry's “side of any tobacco-related story”¹⁰. The ultimate aim was to make “the industry into a legitimate voice in the smoker/non-smoker debate”⁶.

Box 5 presents a similar pattern of networking and allegiance development in Hungary as it prepared for EU membership.

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All these relationship building strategies were informed by one guiding principle. There was a strong desire to appear reasonable: to suggest compromises, propose a middle way and “de-dramatise the issue”. This was partly a matter of logistics and the need to provide “practical solutions to the business community”⁹. It is also aimed at getting “gentler” regulation by, for example, securing “agreement on a minimum harmonization directive, voluntary code or another acceptable compromise”¹² or convincing “Flynn and other commissioners that the impasse can only be resolved via political compromise”¹².

What might be termed “alternative products” also come into play here. Ventilation as opposed to smoke-free initiatives and voluntary controls instead of Ad Bans, for example, have the great strength of apparently meeting public health goals, without stigmatising tobacco or seriously impeding the industry. However, the calculated cynicism of such offerings is perhaps best illustrated by low tar cigarettes, which were actively promoted by the industry as less harmful, or even by inference and imagery, healthier, despite their (then secret) knowledge that smoker compensation completely removes any potential benefit⁵⁵.

However, at a more fundamental level, this diplomacy and apparent reasonableness is about maintaining the “social acceptability of smoking in Europe” which “is threatened by anti-smoking strategies designed to polarise smokers and non-smokers”. The industry was keen to “respond with campaigns that attempt to preserve peace and amity between smokers and non-smokers and programs that consistently rebut misleading claims about smoking”⁶ and “protect and support smokers in a reasonable, responsible and consistent way”⁶.

Box 5. - Tobacco Industry influence in European Union (EU) accession country Hungary

Opportunities

The penetration of new Central and Eastern European (CEE) markets: “The task ahead is monumental... Investments in these [CEE] countries are mandatory if we are to effectively exploit the potential... I am confident that we will achieve these objectives and that the aggressive growth targets we have set for this part of the World will be met in the years ahead”⁵⁰.

Threats

PM claimed that the freedom to advertise is essential for the continuous influx of capital to be used for the modernisation of the Hungarian tobacco industry:

“A critical factor for the successful implementation of the Philip Morris proposal to modernise the Hungarian tobacco industry is the complete freedom of manufacturers to advertise their products... consumers must be provided with the essential characteristics of the product entries in an impactful way”⁵¹.

Segmentation and Targeting

The hiring of economic expertise in the support of industry views:

After the negotiations with the EU on accession of Hungary, tobacco companies hired local and international auditing firms, including Deloitte and Touche and KPMG Hungary, to prepare reports calling for slow alignment with the EU regulation⁵².

Formulation of Strategies

A strategic partnership with the Ministry of Agriculture (MoA):

An RJR letter indicates that, within the government, the MoA helped tobacco companies prevent any “premature” decrease of the nicotine and tar content of cigarettes sold in Hungary. Additionally, the MoA was opposed to any further increase in the size of the health warnings on cigarette packages.

“As indicated earlier, the meetings with the representatives of Agricultural and Welfare Ministries... brought up the following questions:

1. There were [sic] some intention to speed up the timing to decrease tar contents of cigs to 12 mg/cig, and finish the process until the end of 2000... In case of getting to 12 mg/cig tar target the Agricultural Ministry will back our original proposal, it would mean no speeding up...
4. The surface to write up these figures, and that of health warnings would be doubled... Agricultural Ministry will oppose any increasing of surface for the mentioned writings”⁵³.

Creating further new partnerships:

“In Hungary, we will seek through direct lobbying and action with third party allies to amend obsolete tobacco advertising legislation...”⁵⁴.

“Continue to identify and work with opinion leaders, as well as the International Chamber of Commerce, the International Advertising Association and their local chapters to fight legislative attempts to prevent tobacco products from being consumed by, or marketed to informed adults, and to offer viable alternatives through voluntary restraints and common courtesy”⁵⁴.

In the area of passive smoking, for example “failure to grab control of the middle ground on smokers' issues and failure to defuse the conflict over smoking” could have catastrophic consequences, shrinking “the EC cigarette market by as much as 150 billion units over the next 7 years, irrespective of tax increases and ad bans”⁶.

Colonising emotive issues like freedom of commercial speech and individual liberty are popular approaches used here. For example, in Germany “the creation of a Libertad-style coalition of individuals for free commercial speech” was mooted, along with an “advertising and direct mail campaign on constitutional freedoms”¹⁰. The encouragement and seeding of an “EC network of national 'cells' or information centres to defend smokers' issues”⁶ fitted in with this strategy, as did smokers rights groups (see above).

Corporate social responsibility efforts also served their purpose:

“The Philip Morris Marketing Prize, created in 1989, resulted in substantial benefits both for the Corporate Affairs and Marketing functions. The Marketing Prize allows Philip Morris to distance itself from the tobacco manufacturer image by showing PM to be a world-class consumer goods company. This promotion also provides the company with potential management recruits in the marketing area”⁹.

More radically and recently, self-inflicted health warnings, an anathema according to older internal documents^{56, 57}, are another way of winning hearts and minds. A recent PM pack insert explicitly and categorically states that “Smoking causes many serious and fatal diseases including lung cancer, heart disease and emphysema. Your risk of getting a disease from smoking is very high. Do not think that smoking won't affect your health”⁵⁸ and the accompanying press ad argues that “it also requires education about the serious health effects of smoking, including addiction”⁵⁹.

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Youth prevention is another important, and recent, plank in this strategy. It is patently desirable. What right-minded politician or voter would argue against protecting our children? With 80% of smokers starting in childhood it is also inevitable, so the tobacco industry may as well do it and get the credit. The fact that tobacco control, for very genuine reasons, has increasingly shied away from youth prevention⁶⁰ in recent years has also left the field, this middle ground, open for exploitation.

Experience in the courtroom underlines the value of such apparent self harm to the industry. In the recent McTear case in Scotland, Imperial Tobacco's principal defence rested on the litigant knowing the risk. Screeds of press coverage were lodged to show how readily available the information about the ill effects of smoking was during the 1950s and 1960s. Unfortunately for them, this stance was seriously undermined by the recurrence in the self same press articles of denials of these very risks by the tobacco industry. Indeed, they even went as far as claiming health benefits for tobacco⁶¹. It was difficult for the Imperial attorney to maintain that Alf McTear should have known of the health risks when his own bosses were clearly claiming they did not. In today's circumstances it would be very difficult to undermine the argument that smokers are being fully informed about the health risks, and that at least some elements of the tobacco industry are playing an apparently responsible role in providing the information.

Marc Fritsch, PM's Head of Corporate Communications spelt out the strategy in a recent interview in the business press: “We are providing information to respond to consumer

concerns which is good for long-term business. We're not telling them something they don't already know. They simply want us to be more transparent. Yes, it's frank but why should we say anything different"⁶². As Interband's Deputy Chairman Tom Blackett, explains: "I suspect that their focus groups have told them that they're fed this information all the time. If Philip Morris decides to be open and honest, then as consumers they may feel inclined to think better of that brand"⁶².

In many ways this is classic marketing, i.e. making an opportunity out of a threat. In this case the threat is the toxicity of tobacco which is jeopardising the tobacco company's legitimacy as a business, and the opportunity is to regain legitimacy by tackling the health issue in an apparently responsible way. Arguably, this strategy is continuing with Philip Morris' offer to the Commission to make substantial and ongoing financial contribution to combat smuggling (see also chapter 2). In essence, the tobacco industry, with Philip Morris at its head, is applying for readmission to the respectable business community. As an anonymous industry source put it: "They're playing whiter than white and it's clear they're using it for competitive advantage"⁶³. "But ultimately", as the journalist Morag Jones points out, "the promotions and news paper ads serve to reinforce the corporate, not the product, brand"⁶³.

Philip Morris' own press advertising expressed it thus: "The fact is it also makes good business sense to try to stop kids from smoking. In today's world, if we don't do what we can, then our business will be at risk. Governments, regulators and the public may stop us from selling cigarettes to adult smokers"⁵⁹. This last comment highlights the great fear of the tobacco industry, i.e. that regulators will realise the need to control them completely and shut down all their marketing activity, not just to consumers, but also stakeholders. Their aim in recent years has been to counteract this with the adoption of an apparently reasonable and diplomatic style to build long-term, mutually beneficial relationships with all the key stakeholders.

2.4. Competitive analysis

However, some organisations and individuals defied the tobacco industry's blandishments, and offered no hope of being recruited to the tobacco cause: the WHO and what are referred to vaguely as "anti-smoking extremists" or "alliances"⁶, as well as the Commission themselves and other politicians. In these instances, the strategy is one of attack and undermining where possible, and appropriate self defence when not.

The WHO was recognised to have "extraordinary influence on government and consumers" and the pressing need was to "find a way to diffuse this and re-orient their activities to their prescribed mandate". One way to do this was to use their "food companies, size, technology, and capabilities with governments by helping them with their food problems and give us a more balanced profile with the government than we now have against WHO's powerful influence"⁶².

The systematic nature of this anti-WHO campaign was uncovered after an extensive independent enquiry. A committee of experts reviewed the collections of tobacco company documents that were made available as a result of lawsuits in the USA against the industry. The documents revealed that "tobacco companies have focused significant resources on undermining WHO tobacco-control activities to achieve their goal"⁶⁴. Tactics included: establishing relationships with WHO staff and wielding financial power to influence policy; using other United Nations agencies to influence or resist tobacco control; discrediting

WHO and its officials; influencing WHO decision making through surrogate organisations; distorting WHO research; media events; and surveillance of WHO activities. The report concluded that “the attempted subversion has been elaborate, well financed, sophisticated, and usually invisible” demonstrating that “tobacco is unlike other threats to health” in that, in this case, the industry as well as its public health effects have to be tackled⁶⁴.

There is also evidence in Philip Morris's internal documents that the activities of both European Bureau for Action of Smoking Prevention (BASP) and its head, Luk Joossens, were closely monitored by the tobacco industry^{65, 66, 67}. Bitton *et al.*¹⁹ note that “PM regarded BASP's efforts as so effective in influencing EC tobacco-control policy debates that they advocated for the creation of a “BASP-style information bureau” of their own, as shown in the following PM Corporate Affairs 1994-1996 Plan: 'Convince other tobacco companies to help us create a BASP-style 'information bureau' to regularly publicize all favourable findings to media, EC officials, and allies”.

Gilmore and McKee⁴ show how the industry systematically tried to undermine a crucial Environmental Tobacco Smoke study conducted by the IARC. They describe how the three pronged attack was developed, noting in the process that it cost twice as much to execute as was spent on the original study⁴!

The industry also steeled themselves against the activities of a re-invigorated Commission, who “with both the Maastricht debate and the main part of enlargement negotiations behind them ... will again be forward looking and confident to introduce new measures stretching their legal competence. Furthermore, the effects of the EPA classification as well as the IARC ETS Study will have filtered through to provide further justification of Community-level initiatives”³⁸.

It is not clear what they did about this impending threat, but in another instance a troublesome politician was at least considered for a direct attack. In the UK, Tessa Jowell had the responsibility for shepherding a national Ad Ban onto the statute. Gallahers' advertising agency generated a proposal to “undermine Jowell” and “position her as the minister of bans”⁶⁸. During the UK HSC's enquiry into the tobacco industry the representative from the ad agency in question, M&C Saatchi, dismissed this as part of an agency “brainstorm”, one of “a list of ideas” and none of which “saw the light of day”²¹.

However, internal papers disclosed by the Committee show that a range of such ideas (box 6) were taken into consumer research and one directly attacking Tessa Jowell was only dropped because it did not work. Other ideas attacked the UK Government more generally. In a similar vein, another Gallaher campaign deliberately set out “to ensure that people are made aware of the, in effect, closing date for Gratis^c, and in so doing lay down some ground work deflecting people's anger towards the Government and not at their brand”⁷⁰.

Certain sections of the media were also seen as strongly opposed to the tobacco industry, and in this case the defensive reaction was comprehensive media training.

^c Gallaher's loyalty scheme catalogue. Source: TobaccoPapers.com ⁶⁹.

Box 6. - Anti-UK Government advertising concepts taken into consumer research

<p>The restrictions on cigarettes is just the beginning</p> <p>How soon will it be before the government starts to interfere in other areas of our lives?</p> <p>Soon all foods that are potentially “dangerous” (like butter, coffee and sugar) may be restricted in the same way as cigarettes are.</p>	<p>Will restrictions on cigarettes be limited to marketing?</p> <p>Although the government is only talking about restricting marketing on cigarettes at the moment, we may well see other restrictions soon.</p> <p>Are smokers going to be forced to buy cigarettes in plain packs, and hide them from view like criminals?</p>
<p>Smokers are being used as pawns in a political power struggle</p> <p>Tessa Jowell believes that the tobacco issue is her ticket to the top. She knows that public support is her key to success.</p> <p>So far, in her quest for power, she has increased the harshness of any proposed marketing ban at every stage and presented a biased case.</p>	<p>The Government is restricting our rights to freedom of speech</p> <p>Any potential marketing ban imposed by the government is a denial of the right to free commercial speech.</p> <p>Even extreme political parties are given this basic liberty, which is going to be denied the tobacco industry.</p>

Source: TobaccoPapers.com ⁶⁹.

“PM EEG/HQ has been regularly organizing media training for headquarters and affiliate executives since 1986. The basic objective is for PM to have the managing director ready to face the toughest media in every market (currently the case in France, Germany and Holland), to have the marketing/sales/promotions executives trained as a back-up and for specific marketing related interviews, and in addition to have a Brussels-based 'corporate team' ready to face the media (MDH, PAM, ICS)”¹⁰.

If all else fails, the final arena in which an adversary can be challenged is the courts. As box 7 shows there are currently a number of cases being brought by the tobacco industry to challenge what they see as unreasonable, or at least legally unjustified, tobacco-control policies. Prosecuting these cases will involve bringing expert witnesses to support their argument, a process that will be in turn dependent on their corporate reputation. Even in this highly regulated and supposedly very objective forum, the stakeholder marketing discussed in this chapter, with its capacity to enhance corporate reputation, will bring crucial benefits.

But the biggest, and from an industry perspective, most successful legal challenge in recent years was that to the Directive on the Advertising and Sponsorship of Tobacco Products (98/43/EC) brought by the German Government to the European Court of Justice (Case C-376/98 Germany versus Parliament and Council (2000), ECR I-8419). This ultimately succeeded

Box 7. - Current litigation by the tobacco industry in Europe

1. European Court of Justice hears two joined cases on 8 June 2004, one from UK and the other Germany, to decide whether national laws enacting Article 8 of the Directive, banning the sale of snus, are invalid. [See Case C-210/03: R v. Secretary of State for Health ex parte 1) Swedish Match AB 2) Swedish Match UK Ltd and Case C-434/02: Arnold André GmbH & Co. KG v. Landrat of the Herford Local Authority]⁷¹.
2. PJ Carrolls, John Player & Sons and Gallaher (Dublin) Ltd jointly lodged a statement of claim on 22nd April 2004 at the Irish High Court in objection to the advertising ban on the in-store advertising in the Public Health Tobacco Amendment Act of 2004⁷².
3. British American Tobacco (UK) Ltd, Gallaher Ltd, Imperial Tobacco Ltd, Philip Morris Ltd, Seita and Cherwell Tobacco Ltd applied to the High Court in London for a Judicial Review of the Tobacco Advertising and Promotion (Point of Sale) Regulations 2004⁷³.

in destroying the directive, resulting in what was probably the biggest single setback to European tobacco control of recent years. Although the case was brought by the German Government, many in tobacco control would argue that the influence of the tobacco industry was present in the move. They cite, for example, the fact that, shortly after the case had been lodged the Stuttgart-based Studienkreis für Presserecht und Pressefreiheit (Institute for Media Law and Press Freedom) organised a weekend seminar in Baden-Baden, Germany during which leading German and European lawyers attacked the proposed ban. The proceedings were later published and very widely circulated among Commission officials and lawyers⁷⁴.

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Furthermore, although Neuman *et al.*⁷⁵ did not find evidence in the released industry documents to confirm that “Philip Morris sought to influence the European Court of Justice's decision”, the document record “does show that the industry anticipated a German case before the European Court of Justice as the ultimate means of defeating the advertising directive”. and “In preparation for such a challenge, CECCM allocated DM50,000 for two studies to determine if there was a sufficient basis for a legal challenge to prove the advertising ban to be 'null and void on constitutional' grounds”. This again underlines the success of the industry's stakeholder marketing which, as we have already noted, reached the highest levels in Germany.

2.5. The evaluation of effectiveness

It is extremely difficult to establish what effect the tobacco industry's stakeholder marketing activities have had on European tobacco-control policy. It defies conventional approaches to evaluation. There is patently no possibility of a control group, not least because the tobacco industry operates globally. Nor are the normal tools of consumer marketing, such as usage and attitude surveys or marketing communication awareness monitors, much help. Stakeholder marketing is too subtle and covert for such open approaches to bear fruit.

Instead, we have to fall back on the industry's own claims of success and the view of expert observers. The internal documents certainly include a number of self congratulatory remarks about the successful implementation of their stakeholder marketing, and the achievement of desired outcomes.

Thus their courtship of journalists “resulted in substantial and very positive press coverage and in building up close, personal contacts with prominent journalists”¹⁰, for example, and the early success of the science prize initiative led to it being renewed and extended:

“Following the success of the launch, two years ago, of the French and the Italian Prizes, we are now studying the possibility to create a Science Prize also in the Benelux (or two separate Prizes in Belgium-Luxemburg and the Netherlands)”¹⁰.

The success of their science prize in France is shown in that it “has officially received the patronage of the Ministry of Industry and Scientific Research”⁷⁶ and provided “excellent contact with the scientific advisor to President Mitterand”¹⁰. In Italy, high value is placed on the associations with “top Italian state institutions”⁷⁷ during the prize's development. Finally, reporting back to the Board of Directors, one executive at the 1993 prize-giving in Germany remarks on the attendance of “400 elected officials, the press, university lecturers, scientists and industrialists”⁷⁸ and sees the fact that “not one anti-tobacco phrase was uttered during or in the coverage of the prize” as a surprising success and “probably impossible in America”. However, he laments the fact that throughout the ceremony, there was nothing about PM Companies, Kraft or Jacobs Germany displayed or in the programme materials. The opportunity was missed to indicate that “PM stands for anything beyond tobacco in Germany”⁷⁸. The research prize continues to be awarded in Germany⁷⁹.

In terms of affecting tobacco-control policy in Europe, measures of the industry's success can be taken from how they viewed their own lobbying. Bitton *et al.*¹⁹ state that “the tobacco industry lobbied effectively to reduce impact and scope of the labeling directive. The Phillip Morris Corporate Affairs Department... describes PM's success in achieving their desired result: ‘Considerable success was achieved with regard to the size of the warnings compared to the original Commission's draft directive which required a minimum print size of 3 mm and would have occupied up to 50% of the large surfaces’”¹⁹.

Gilmore and Mckee⁴ cite the industry journal Tobacco International's description of lobbying the tax directives as a “triumph for the national industries”. It noted that, while Member States generally intervene or respond only after the European Commission has formulated a proposal, the industry intervened earlier in this case: “while the Commission was in the process of formulating its proposals the industry could, and did, intervene—this time successfully”⁴.

The website of the ITIC³⁷ (see above) also claims great success in persuading governments to adopt their policies on taxation:

“The tangible results of ITIC's work are evident in many of the changes that CIS nations have made to their tax codes. And the consistent attendance at ITIC programs by the most senior tax officials of transition countries testifies to the unique position ITIC occupies.

While other groups do policy work in the former Soviet Union and transition countries, ITIC does more. Its strategy of serving as a neutral forum for discussion and resolution of legislative, regulatory, and administrative problems in tax and investment policy has been extraordinarily effective”.

Similarly, with the Ad Ban, once the industry was convinced of German support to maintain the advertising directive blocking minority in the Council of Ministers, “it focused its efforts on gaining the support of other member states... The industry’s success in achieving Danish opposition offers a fascinating insight into its efforts to foster and support libertarian arguments”⁴. Philip Morris created a large Danish coalition called “Committee for Freedom of Commercial Expression” that managed to appear distinct from the industry.

“The coalition conducted media briefings, participated in debates, wrote articles, and undertook and publicized an opinion poll that showed more than 70 percent of Danes opposed the EEC Advertising Directive... The industry saw it as a great success in the fight against the advertising ban, describing it as “instrumental in securing the commitment and public declaration of the Minister of Health to oppose an advertising ban”⁴.

And the European Ad Ban is probably the biggest success for the industry’s stakeholder marketing effort. As Neuman et al.⁷⁵ say, “while the industry’s attempts to block the ban through lobbying ultimately failed”, the ban was defeated in the courts “as anticipated in tobacco industry strategies from an early stage”. What is more, in the interim their efforts had ensured that the ban was delayed for many years.

The industry has also had some success in blocking smoke-free workplace legislation at EU level as box 8 shows.

Box 8. - Smoke-free workplace legislation: Netherlands case study

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Since 1990, smoking has been banned in all public buildings and commonly used areas of governmental buildings in the Netherlands⁸⁰.

In 1996, Philip Morris tried to demonstrate that ETS did not pose a significant health risk to non-smokers by placing adverts in the main Dutch newspapers (and across Europe). A STIVORO (Dutch Foundation on Smoking and Health) survey found that “the number of people who said that ETS is harmful to health had fallen after the campaign, although not significantly”⁸¹. However, PM’s goal failed as more people said that “separate areas for smokers and non-smokers in public places are needed... and that employees should be able to work without being bothered by cigarette smoke”⁸¹.

From the 1 January 2004, workers by law now have the right to work in a smoke-free workplace. However, there is one major exception: workers in the hospitality industry, or Horeca (Hotels, Restaurants and Cafes). Ventilation is the main issue Horeca is trying to promote to avoid smoke-free workplace legislation in their sector and this is an issue the tobacco industry would support.

It is not clear from the internal documents if the tobacco industry is involved in the current discussion on ventilation in Holland, however, it is evident that they played a prominent lobbying role previously. PM’s strategies to prevent further market and consumer restrictions in Holland include to “intensify strategic alliance with Royal Horeca Nederland and mobilize them when appropriate” and “introduce and further expand Courtesy of Choice program in Horeca sector”⁸². Also, to “identify messages and appropriate vehicles to communicate that the diverse expectations regarding smoking public venues can be accommodated and the role ventilation can play”⁸³.

3. THE FUTURE: WHAT SHOULD BE DONE ABOUT TOBACCO INFLUENCE?

This chapter has shown that industry efforts to influence tobacco-control policy in Europe have been extensive, varied and well resourced. There has been a coherent marketing strategy to target stakeholders, just as there has been one to target consumers. And, in both cases, the objective is the same, to influence behaviour: in the case of consumers their smoking behaviour; in the case of stakeholders their regulatory, lobbying and professional behaviours. The combined aim of these activities is the greater profitability and longevity of the corporation.

It is also clear that in at least one vital policy area, i.e. the control of marketing communications, they have been extremely successful. The implications of this success could not be more serious. When a comprehensive Ad Ban was introduced in the UK in 2003 the Government calculated it would save some 3,000 lives per year⁸⁴. By the same logic, the tobacco industry's successful campaign to delay, and then overturn, a European Ad Ban has cost tens of thousands of lives. Furthermore, industry attempts to influence policy will, inevitably, continue. As noted at the outset of the chapter, such stakeholder marketing is routine commercial practice. You can no more expect the industry to voluntarily stop lobbying than you can expect them to voluntarily stop advertising. However, given the well rehearsed and appalling toll from tobacco-related disease, this is completely unacceptable.

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In the case of advertising, and other consumer marketing activity, the solution is, at least notionally, straightforward: you ban the practice. The UK Ad Ban for example, severely curtails most forms of tobacco promotion. However, it is impossible to ban stakeholder marketing: you cannot stop Heads of State or even Members of European Parliament going to meetings, mutual benefit organisations being formed or journalists being courted.

Two alternative options suggest themselves. The first is what might be termed the voluntary route. This would rely on people's good judgment and the increasing unpopularity of the tobacco industry to make lobbying ineffective or even impossible. Ideally, tobacco influence and funding would become politically and socially unacceptable.

The prospects for this are not good. Lessons from across the Atlantic are instructive. In the USA the tobacco industry is on the back foot in some key states and cities (e.g. Florida, California and New York), but in most of the country it is retrieving things quite well (witness the slashing of tobacco-control budgets). The situation in Europe is also very different from the USA. We have not had, and are unlikely to have, the swathe of litigation which seems to have driven public opinion and media coverage there; nor a campaign like Truth (which has run high profile mass media campaigns exposing "big tobacco"). In addition, Philip Morris is now leading public relations offensive that includes youth prevention, voluntary health warnings, corporate social responsibility (CSR) and substantial financial support to the Commission to combat smuggling. This has the specific purpose of buying back their credibility. Furthermore, the marketplace will inevitably undermine this voluntary approach, at least while the most consumer acceptable form of nicotine delivery (the modern manufactured cigarette) is also the one that does the most long term damage to health.

Given that tobacco is so harmful to public health it is unacceptable to rely solely on such an unpromising voluntary strategy.

At the other extreme is the option of outlawing tobacco, its manufacture and marketing altogether. However, this would be impractical. There are >200 million smokers in the newly enlarged EU, most of whom are heavily addicted. Prohibiting their access to tobacco could potentially cause serious social unrest, and would certainly feed a black market that has been brought into being merely by variations in price.

A more workable alternative is to accept that the tobacco market must continue, at least for the foreseeable future and to fully regulate it. One example⁸⁵ proposes a public sector agency which would procure cigarettes for smokers using a tendering process to the (competing) tobacco companies. The tender could be designed to minimise harm (e.g. by prescribing nitrosamine levels and those of other harmful chemicals) and thus enhance public health. Crucially, it would also completely remove all forms of marketing, including both the residual efforts targeting consumers and the currently completely uncontrolled marketing to stakeholders. In this way the tobacco companies would become generic commodity producers, and public health needs could be given precedence over those of tobacco shareholders.

This form of market regulation also cuts to the quick of the tobacco problem: the pursuit of profit. As long as powerful multinational corporations are free to use stakeholder and consumer marketing to leverage rich returns from tobacco the toll from smoking will continue. As the independent committee of experts concluded when they uncovered the industry's systematic subversion of the WHO: "Reversing the epidemic of tobacco use will be about more than fighting addiction and disease; it will be about overcoming a determined and powerful industry"⁶⁴.

Acknowledgements

With contributions gratefully received from Luk Joossens, Joop Bouma, Professor Gérard Dubois, Dr Eva Kralikova, Dr Tibor Szilágyi, Dr Ron Borland, Professor Geoffrey Fong, Dr Norbert Hirschhorn and Dominique Hamerlijnck.

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